

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>YOUNG'S DITCHES</p> <p>ATTN: Gerald Young</p> <p>RESPONDENT</p>	<p>MEASURING DEVICE AND CONTROL STRUCTURE NOTICE</p> <p>SEAA No. 2031 ACCOUNT No. 103328 WATER RIGHT Nos. 35-8628, 35-8666, 35-8667</p>
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I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

- (1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:*
- (a) each location where water is diverted from a source; and*
- (b) any other location required by the state engineer.*
- (2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.*
- (3) The state engineer shall approve the design of:*
- (a) the measuring device; and*
- (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...*
- (6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:*
- (a) forbid the use of water until the user complies with the state engineer's requirement; and*
- (b) commence enforcement proceedings authorized by Section 73-2-25.*

II. STATEMENT OF FACTS

1. Respondent diverts water from the Weber River at one or more locations under water right numbers 35-8628, 35-8666, and 35-8667.
2. Respondent's upstream diversion has a control structure (headgate) to control the flow.
3. Control structures and measuring devices are necessary at all Young's Ditches diverting from the Weber River.
4. Based on aerial imagery, it appears water is actively diverted at two or more of these ditches at various other downstream locations.

5. Based on our most recent field visit, we know of only one flume that measures part of the flow diverted at the first or upstream diversion.
6. Water must be measured at each active diversion.
7. Unless all of the water diverted under the above water rights is “funneled” into the existing flume, which doesn’t seem to be the case here, other measuring devices are required to measure all water diverted.
8. Canals and ditches are typically measured using weirs or flumes.
9. Enclosed pipelines are typically measured using water meters.

III. ACTIONS REQUIRED

1. An adjustable and lockable headgate (control gate) must exist at each point of diversion or Turnout where water is diverted from the Weber River or its tributaries.
2. A suitable measuring device must exist at each river diversion being used to divert water.
3. Open channels such as ditches or canals are typically measured with flumes or weirs. Enclosed pipelines are typically measured with water meters. If water meters are used, please coordinate to purchase a meter that will connect with telemetry to enable the reporting of diversions to be automated.
4. Flumes or weirs, if used, must also include a functioning stilling well which enables a recording of the flow.
5. Headgates and measuring devices must be accessible to the water commissioner and deputy commissioner charged with regulating diversions on the Weber River.
6. **This work must be completed by October 1, 2015.**

IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
4. If determined to be in violation an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005), including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation.”

V. FURTHER INFORMATION

If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Ross Hansen
Regional Engineer
Western Region
Utah Division of Water Rights
Weber Office
(801) 538-7240

and/or

Ben Anderson
Water Rights Distribution Engineer
Utah Division of Water Rights
(801) 538-7240
1594 W North Temple Ste 220
P.O. Box 166300
Salt Lake City, UT 84104-6300

Dated this 25th day of September, 2014

A handwritten signature in cursive script, appearing to read "Ben L. Anderson", written over a horizontal line.

Ben L. Anderson, P.E.
Distribution Engineer
Utah Division of Water Rights

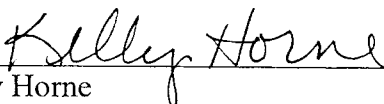
CERTIFICATE OF MAILING

I, the undersigned, certify that on this 25th day of September, 2014, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Gerald Young
PO BOX 277
Oakley, UT 84055**

USPS TRACKING #
& CUSTOMER
RECEIPT

9114 9011 2308 6069 1223 84
For Tracking or inquiries go to USPS.com
or call 1-800-222-1811.



Kelly Horne
Division of Water Rights
Field Services Secretary

cc: Ross Hansen, Regional Engineer
Cole Panter, Water Commissioner
Alene Marchant, Deputy Water Commissioner